

General Information Letter: Taxation of income from in-home business.

July 16, 1998

Dear:

This is in response to your letter dated April 28, 1998, in which you request a letter ruling. The nature of your letter and the information you have provided require that we respond with a General Information Letter (GIL) which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter you have stated the following:

Recently we decided we would like to start a small home business out of xxxxx xxxxx, Illinois. What we will be doing is creating an array of paper products with our computer. These products will include address labels, business cards, letterhead, party invitations, flyer original copies, place cards, and gift tags. All of these items will of course, be made to order. Also, the only customer contact we will have will be through the mail. There will be no selling of our products in any kind of prepackaged or retail way. We won't have any customer traffic in and out of our home base area; nor will there be any parking zone or delivery issues - due to the fact that we will be purchasing obtaining our own supplies. Now that we have fully explained the nature of our home business to you, we are hoping that the Illinois Department of Revenue can give us in writing some confirmation as to our tax obligations. (or actually, lack thereof)

When we first decided to prepare for starting the business, we went about contacting the Clerk's office for the town of xxxxx xxxxx, We were told that due to the nature of our business, we would not require any kind of business license. We were also told that there would be no kind of problem with us advertising - as long as it wasn't in any kind of solicitous way.

Our next step was to contact by phone, you at the Illinois Department of Revenue. After explaining everything, we were again told that we would not be required to fill out any forms for a license, nor would we be a taxable business. We pay tax on all of our supplies, so we're not tax exempt and we do not charge any kind of sales tax on our products - therefore we were told that we are not liable to turn over any tax money to the I.R.S. or the I.D.R.

What we are requesting now, is a letter or document back from you so that we may have all of this confirmed in a written form. We were told to write you with all our info and any questions, and that we would receive a letter back answering us; and that the response we get back would be considered a valid confirmation document.

Aside from confirming the info we have state here, we have a few questions we hope you can answer:

1. Are there ANY forms we have to fill out for the I.D.R. at all?
2. How will having the business affect us personally at the end of the year for our income tax? If at all? (Do we have to file certain forms? Must we Keep a log of all of the money we make and money we spend on supplies, etc?)

Ruling

Only your questions relating to Illinois income tax are addressed by this GIL. A response to the sales tax questions raised by your letter will be forwarded under separate cover by the Department's sales tax division, to whom a copy of your letter has been referred.

The Illinois Income Tax Act ("the IITA"; 35 ILCS 5/101 et seq.) imposes a tax on the Illinois "net income" of every individual (IITA §201(a)). An individual's Illinois net income is generally determined by starting with his or her federal adjusted gross income, then making certain addition and subtraction modifications (See IITA §202, §203(a)). The amount of Illinois income tax an individual must pay, then, depends initially upon the amount of that individual's federal adjusted gross income. For this reason, your question regarding the personal tax consequences of conducting your business is initially a question of federal income tax law. Questions of federal income tax law should be directed to the Internal Revenue Service (IRS). The IRS also issues publications that assist small businesses in determining their federal income tax liability. You may wish to obtain such a publication or contact the IRS directly for assistance.

In addition to the income tax on individuals, Illinois imposes income taxes on entities, such as partnerships and corporations. For example, if you were to incorporate your business, then your corporation may also be subject to Illinois income taxes. Typically, whether there exists an entity for Illinois income tax purposes depends upon whether an entity exists under federal income tax law. The arrangement described in your letter suggests that your business may constitute a partnership under the federal income tax law. If that is true, then a partnership will exist as well for Illinois income tax purposes. Once again, though, since this issue is initially a matter of federal income tax law, you may wish to contact the IRS as to the precise nature of your business.

With regard to forms and record-keeping required by Illinois, individuals generally must report their Illinois income tax by filing Form IL-1040. The Department of Revenue has not required that individuals maintain books or records. However, to determine his or her federal income tax liability (and hence Illinois income tax liability) an individual is required by federal income tax law to maintain records. Thus, since the matter of record-keeping is initially a question of federal income tax law, you should contact the IRS with your questions.

Finally, if your arrangement is determined to constitute an entity, such as partnership, under federal income tax law, then additional Illinois forms may be required. First, a partnership is required to report its Illinois income tax on Form IL-1065. Also, Illinois law requires a partnership to maintain books and records to substantiate any information reported on the Form IL-1065. Finally, a partnership must register with the Illinois Department of Revenue by filing Form NUC-1.

You may obtain Illinois tax forms in the following ways:

- 1) writing to Illinois Department of Revenue, P.O. Box 19010, Springfield, IL 62794-9010
- 2) calling our Forms Order Line at 1-800-356-6302
- 3) calling Illinois Tax Fax at 217-785-3400
- 4) visiting our Web sit at <www.revenue.state.il.us>

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Brian L. Stocker
Staff Attorney-Income Tax